

**The Commissioners of St. Michaels**

**Public Working Sessions**

**September 23, 2009**

**3:00 p.m. – Special Public Working Session**

**Present:**

Commissioners Michael Brady, Joanne Clark, Philip Dinkel, and Donna Hunt, Town Manager Cheril Thomas, Administrative Clerk Sabrenia Yohn, and Secretary Dorothy Olley and 3 members of the public. Commissioner Robert Snyder was absent.

**Call to Order**

President Brady called to order a special public working session at 3:00 p.m. in the meeting room of the Edgar M. Bosley, Jr. Municipal Building, 300 Mill Street, to discuss a draft Debt Policy; update of the Town's Investment Policy; and a Request for Proposal (RFP) for Banking Services. The Pledge of Allegiance was recited.

**Debt Policy Discussion:**

President Brady recognized Mr. Sam Kettleman and Mr. Joe Mason of Davenport & Company. Mr. Mason said in order to be in compliance with legislation recently enacted by the State General Assembly, municipalities, community colleges and boards of education are required to file a debt policy with the State of Maryland by October 1, 2009. Mr. Mason went on to say that his office had created a draft sample policy for the Town to use as a guideline. Mr. Mason said the policy for St. Michaels has been tailored for its size and level of complexity and in accordance with state law and the Town's Charter. Mr. Mason suggested that the policy guidelines be reviewed every two years, and any deviations will need to be reported annually. Mr. Mason continued his explanation of the details of the policy, after which President Brady asked if there were any other questions from the Commissioners or staff. Mrs. Thomas said that the Commissioners would need to direct staff to put the policy in Resolution form for a vote at their October 28, 2009 legislative session.

President Brady asked if there were any questions or comments from the public. Ted Doyle of Perry Cabin Drive suggested that the annual debt service percentage in the draft policy should be changed from 12 percent to 10 percent of the general fund expenditures to be conservative and to take into consideration that assessed property values may be on the decline in the next year. Commissioners Brady, Clark and Hunt were in agreement with changing the percentage to 10 percent. As there were no other comments, President Brady directed staff to put the debt policy in resolution form using the 10 percent figure for a vote at the October 28, 2009 meeting, but to reserve the right to change the percentage upon further discussion.

On a question from Mrs. Thomas, Mr. Mason commented that his firm is looking into opportunities for the Town to restructure and possibly refinance some of its existing debt and that his office will provide that information to the Town office upon completion of their analysis. Mr. Mason also suggested that the Commissioners may want to consider liquidating some of their debt from funds realized from the sale of the Town's utility company.

**Investment Policy and Request for Proposal of Banking Services Discussion:**

Mrs. Thomas said the last review of the Town's Investment Policy was in 1996 and that the Town attorneys had been requested to review the policy to determine how it compares to the State policy, and to prepare a revised draft policy to bring it up to date. Mrs. Thomas then provided

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the Commissioners with an overview of the policy contents and suggested that the Commissioners review the draft policy and forward any questions or comments to Funk & Bolton. Mrs. Thomas also noted that the policy provides for one person holding the position of Investment Officer and that the Commissioners may want to consider revising that language.

Mrs. Thomas then discussed with the Commissioners the current investments the Town holds in the Local Government Investment Pool and the various accounts at PNC Bank, recommending that the Commissioners may want to consider the issuance of a Request for Proposal (RFP) for banking services.

President Brady then made a motion directing Town staff to draft an RFP for Banking Services, and to continue work on the Investment Policy, putting it into legislative form. Commissioner Hunt made the motion, as stated by President Brady. , Commissioner Clark seconded the motion which passed on a roll call vote of 4-0 in favor. Mrs. Thomas also proposed having Victor Tervalo from Funk and Bolton present during the public discussion on the Investment Policy.

**Comments from the Public:**

President Brady asked if there were any other comments from the public. Ted Doyle of Perry Cabin Drive said he did not favor paying off debt as proposed by Mr. Mason. Mr. Doyle also commented that the Miles River Yacht Club will no longer be able to administer the annual 4<sup>th</sup> of July fireworks and proposed that the Town or the St. Michaels Business Association might want to take on the event, the cost of which is approximately, \$18,000.00

**Comments from the Commissioners:**

There were no additional comments from the Commissioners.

**Adjournment:**

President Brady adjourned the meeting at 4:00 p.m.

**6:30 p.m. – Legislative Session**

**Present:**

Commissioners Michael Brady, Joanne Clark, Donna Hunt , and Philip Dinkel, Town Manager Cheril Thomas, Town Attorney Jeff Blomquist, Administrative Clerk Sabrenia Yohn, Codes Enforcement Officer Deborah Renshaw, Secretary Dorothy Olley, and approximately 25 members of the public. Commissioner Robert Snyder was absent.

**Call To Order:**

President Brady called to order the regular legislative session of the Commissioners of St. Michaels at 6:30 p.m. in the meeting room of the Edgar M. Bosley, Jr. Municipal Building, 300 Mill Street, St. Michaels. The Pledge of Allegiance was recited.

**Announcement of Prior Closed Session:**

President Brady announced that the Commissioners met in closed session at 5:00 p.m., pursuant to Maryland Code, State Government Art., § 10-508 (a) (7) to receive advice from counsel regarding matters related to Florkewicz vs. The Commissioners of St. Michaels; the filing of a subsequent TND application by Miles Point Properties, LLC and TND Development, Inc.; and personnel matters.

President Brady also announced that Commissioner Snyder will not be attending the meeting this evening however, he had provided sufficient notice to the remaining Commissioners that he would not be present and that he would be voting on matters eligible for vote by absentee ballot. Mrs. Thomas had his ballot and would be voting on behalf of Commissioner Snyder at the appropriate times.

**Continued Public Hearing and Possible Introduction:**

President Brady opened the continuation of the Public Hearing on Ordinance 408, AN ORDINANCE OF THE COMMISSIONERS OF ST. MICHAELS TO AMEND THE CODE OF THE TOWN OF ST. MICHAELS, CHAPTER 340 (ZONING) §340-108 (DEFINITIONS) TO AMEND THE DEFINITION OF A PUBLIC PARK TO INCLUDE THE HOLDING OF COMMUNITY ENHANCEMENT EVENTS AS DEFINED; TO AMEND §340 (ZONING) TO ADD A NEW SUBSECTION 340.51.2 (COMMUNITY ENHANCEMENT EVENTS); TO DEFINE COMMUNITY ENHANCEMENT EVENTS AS OPEN AIR CONCERTS/PERFORMANCES, CULTURAL AND GOVERNMENT SPONSORED OR SUPPORTED EVENTS AND FARMERS' MARKETS; TO DEFINE THE PURPOSE AND GENERAL REQUIREMENTS OF ALL COMMUNITY ENHANCEMENT EVENTS; TO AMEND CHAPTER 234, (PEDDLING AND SOLICITING), ARTICLE I, (TRANSIENT VENDORS), §234-2 (PROHIBITED CONDUCT) TO ALLOW FOR THE VENDING OF GOODS ON PUBLIC PROPERTY UNDER THE PROVISIONS OF A COMMUNITY ENHANCEMENT EVENT; AND PROVIDED THAT THIS TITLE SHALL BE A FAIR SUMMARY AND GENERALLY RELATING TO PUBLIC PARKS AND COMMUNITY ENHANCEMENT EVENTS IN THE TOWN.

The Commissioners agreed that as with the previous public hearings sessions on Ordinance 408, Resolution 2009-19 would be discussed at the same time. Mrs. Yohn read the title of Ordinance into the record and identified the Exhibits as follows:

<u>Exhibit No.</u>	<u>Submitted at Public Hearing (Date)</u>	<u>Exhibit</u>
1	August 26, 2009	Notices of the public hearing scheduled for August 26, 2009 as published in the <i>Star Democrat</i> on August 10, 2009 and August 20, 2009.
2	August 26, 2009	Ordinance 408
3	August 26, 2009	Notice of Public Hearing on August 26, 2009 for Ordinance 408 which was posted on the bulletin board in the Town Office.
4	September 9, 2009	Petition submitted by the St. Michaels Concerned Citizens and Residents during the public hearing on August 26, 2009.
5	September 9, 2009	FreshFarm Markets DOT Survey Results dated May 23, 2009 which were submitted during the public hearing on August 26, 2009.
6	September 9, 2009	Letter from Ted Doyle to the Commissioners of St. Michaels dated September 3, 2009
7	September 9, 2009	Ordinance 408 -- Draft as of 08/21/09 for continued public hearing on September 9, 2009
8	September 9, 2009	Notice of Continuation of the Public Hearing on September 9, 2009 for Ordinance 408 which was posted on the bulletin board in the Town Office.
9	September 23, 2009	Notice of Continuation of the public hearing scheduled for September 23, 2009 as published in the <i>Star Democrat</i> on September 21, 2009.
10	September 23, 2009	Ordinance 408 -- draft for continued public hearing on September 23, 2009
11	September 23, 2009	Notice of Continuation of the Public Hearing on September 23, 2009 for Ordinance 408 which was posted on the bulletin board in the Town Office.

Mrs. Yohn then read the title of RESOLUTION 2009-19 into the record as follows:  
Resolution 2009-19 - A RESOLUTION OF THE COMMISSIONERS OF ST. MICHAELS TO REPEAL AND REENACT THE REGULATIONS FOR OPERATIONS OF ALL PUBLIC PARKS; TO ENACT REGULATION FOR PUBLIC EVENTS TO BE HELD IN PUBLIC PARKS AND ON TOWN PROPERTY PURSUANT TO A PERMIT ISSUED BY THE TOWN AND TO ENACT REGULATIONS FOR FARMERS MARKETS HELD IN PUBLIC PARKS OR ON PUBLIC PROPERTY PURSUANT TO A PERMIT ISSUED BY THE COMMISSIONERS OF ST. MICHAELS

President Brady asked Mrs. Thomas to provide an overview of any changes to Ordinance 408 since the last public hearing. Mrs. Thomas said, as requested by the Commissioners, the definitions of Farmers Market, Public Park and Town Property had been added to the latest draft of the Ordinance. President Brady asked if the Commissioners had any comments or questions. There were no comments. President Brady then called for public comment.

Ted Doyle of 316 Perry Cabin Drive proposed changes to Resolution 2009-19 regarding vendors being the responsibility of the market manager. Mr. Doyle also commented on the restrictive language in the Resolution regarding the operation of the market and day and time and that the

restriction was based on a Farmers market operating in a residential zone and should not be applied to markets operating in other areas.

Elizabeth Beggins of 112 Conner Street commented that references to "producer only", appearing in multiple locations in the Resolution appear to be redundant and should possibly be combined; suggested that a clearer definition of "arts and crafts" would be helpful; and inquired about the addition of the language in Section C under farmers' markets which states that it "should be for the benefit of residents and taxpayers".

Carol Bean of Pot Pie Farm said she was satisfied in general with the Resolution and agreed with Mr. Doyle's comments regarding setting restrictions on the day and time for operation of the farmers' market.

Following the public comment and Commissioner's discussion, President Brady closed the public hearing on Ordinance 408 and called for introductions. Commissioners Dinkel, Clark and Brady introduced Ordinance 408 as presented. President Brady said the Ordinance and Resolution 2009-19 would be eligible for a vote at the October 28, 2009 meeting of the Commissioners.

President Brady said that if there were no objections from the Commissioners, he would like to move the discussion of items under Section VI of the Agenda (Legislation and Other Matters Eligible for Vote) forward on the agenda. There was no objection.

**Legislative and Other Matters Eligible for a Vote:**

- **Ordinance 407**, AN ORDINANCE TO AMEND THE TOWN OF ST. MICHAELS CRITICAL AREA MAP TO REFLECT THE CHANGE IN THE DESIGNATION OF 2.99 ACRES OWNED BY WINDWARD INVESTMENT, LLC IN THE TOWN OF ST. MICHAELS CONSISTING OF 2.99 ACRES IDENTIFIED ON TAX MAP 200, GRID 21, AS PARCELS 1783 AND 1785, A PORTION OF WHICH CONSISTS OF THE ROAD BED OF CHESAPEAKE AVENUE THAT IS OWNED BY THE COMMISSIONERS OF ST. MICHAELS FROM LIMITED DEVELOPMENT AREA TO INTENSELY DEVELOPED AREA ; PROVIDING THAT THE TITLE OF THIS ORDINANCE SHALL BE DEEMED A FAIR SUMMARY; AND GENERALLY RELATING TO THE AWARD OF GROWTH ALLOCATION FOR THE WINDWARD INVESTMENT, LLC PROPERTY.

President Brady said that Ordinance 407 had been introduced on September 9, 2009 by Commissioners Brady, Clark, Dinkel, Hunt and Snyder; that a public hearing was held on September 9, 2009; and that the Ordinance was now eligible for vote. President Brady asked if the Commissioners had any comments or questions. There were none. President Brady called for a motion to adopt Ordinance 407 as presented. Commissioner Dinkel made the motion to adopt Ordinance 407 as stated by President Brady. Commissioner Clark seconded the motion which passed on a roll call vote of 5-0 in favor, with Commissioner Snyder's absentee vote being read into the record by Mrs. Thomas.

- **Resolution 2009-20**, A RESOLUTION OF THE COMMISSIONERS OF ST. MICHAELS TO PERMIT THE FILING AND PROCESSING OF A SUBSEQUENT APPLICATION FOR A TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) ZONE APPLICATION BY MILES POINT PROPERTY, LLC AND TND DEVELOPMENT, INC. FOR THE MILES POINT III-150' PROJECT, PURSUANT TO CHAPTER 340 (ZONING), SECTION 340-32 OF THE TOWN CODE.

President Brady noted that Resolution 2009-20 did not require a public hearing and that this resolution would be eligible for a vote on October 28, 2009.

Town Attorney Jeff Blomquist provided an overview of the Resolution and explained that Resolution 2009-20 does not approve a specific plan or development, but rather allows for the filing of a subsequent application by Miles Point Properties, LLC and TND Development for a 238 lot TND sketch plan. Attorney Blomquist said the public would have an opportunity to comment on the application when it is reviewed by the Planning Commission and the Commissioners during public hearings. President Brady asked if the Commissioners had any comments. There were none. President Brady said if the Commissioners had no objection, he would invite public comment. There was no objection.

Roy Myers of E. Chestnut Street stated that he had attended the meetings in which the Midland Companies had presented to the Rotary a proposal to reduce the number of units to 188 including the Hunteman property. Mr. Myers said he would like to see Midland come forward with that proposal.

President Brady recognized Richard A. DeTar, attorney for the Miles Point Properties LLC, to respond to Mr. Myers. Mr. DeTar said that his clients would be willing to come forward today with 188 units including Hunteman, if the parties in opposition to the project agreed to stop all litigation against the project. Otherwise, the project must remain at a unit count that allows his clients to endure the cost of defending the lawsuits.

Mr. Myers said that while he did not speak for the people involved in the lawsuits, in his opinion, Miles Point should come forward with the 188 unit plan and that he would do all that he could to work with the parties to that end.

Town Attorney Blomquist reiterated the purpose of the Resolution 2009-20, noting that concerns about units and other details could be raised before the Planning Commission and the Commissioners as the plan moved forward.

Beth Jones of 5009 St. Michaels Road urged the Commissioners to delay a vote on Resolution 2009-20.

John Wolfe of Perry Cabin Drive asked Attorney Blomquist to confirm that the DRRA was not part of these discussions. Attorney Blomquist said that was correct.

President Brady asked if there were any other comments from the public or the Commissioners. There being none, President Brady called for a motion to adopt Resolution 2009-20, as submitted. Commissioner Dinkel made the motion as stated by President Brady. Commissioner Clark seconded the motion which passed on a roll call vote of 5-0 in favor, with Commissioner Snyder's absentee vote being read into the record by Mrs. Thomas.

**Consent Agenda:**

President Brady said that the consent agenda included minutes for public and closed sessions for the month of August 2009 as follows:

- o August 7, 2009 – closed session
- o August 12, 2009 – public session
- o August 17, 2009 – closed session
- o August 26, 2009 – public session

President Brady noted that the Consent Agenda reported that the Halloween parade had been changed from 5:00 p.m. to 4:00 p.m., and that Trick-or-Treating has been set for the hours of 6:00 p.m. to 8:00 p.m. on October 31, 2009. President Brady asked if there were any comments from the Commissioners or the public. There being none, Commissioner Dinkel made a motion to accept the Consent Agenda as presented. Commissioner Hunt seconded the motion which passed on a roll call vote of 4-0 in favor.

**Legislation and Other Matters Eligible for Discussion and Possible Introduction:**

- **Ordinance 405, A BILL TO DEFINE "ADULT ORIENTED BUSINESSES" AND TO ADOPT A TEMPORARY MORATORIUM UPON PROCESSING APPLICATIONS, SITE PLANS, BUILDING PERMITS, AND APPROVALS OF ADULT ORIENTED BUSINESSES IN THE INCORPORATED LIMITS OF THE TOWN OF ST. MICHAELS FOR A PERIOD OF NINE MONTHS PENDING CONSIDERATION AND ADOPTION OF SUCH LEGISLATION AT THE COMMISSIONERS OF ST. MICHAELS MAY CONSIDER ADVISABLE TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE TOWN OF ST. MICHAELS**

President Brady called upon Mrs. Thomas who provided an overview of Ordinance 405 stating that much like Talbot County and the Town of Easton, staff is recommending consideration of this legislation to place a moratorium on such businesses in the light of changes to the zoning as a result of adoption of the Comprehensive Plan. Mrs. Thomas said the Town has not received any requests for such a business. There were no comments from the Commissioners or the public. President Brady called for introductions. Commissioners Clark, Hunt, Dinkel and Brady introduced Ordinance 405. President Brady said the Ordinance would be eligible for a vote at the October 28, 2009 meeting of the Commissioners.

- **Chesapeake Reach's Stormwater Management Plan Application**  
President Brady asked Codes Enforcement Officer Deborah Renshaw if she had reviewed the application. Mrs. Renshaw responded that the application is complete and has been forwarded in its entirety to the Commissioners. It has also been forwarded to the Town engineers for their review and they will be providing their comments in time for the public discussion on October 28, 2009. President Brady asked if there was any comment by the Commissioners or the public on the application. Langley Shook of 8226 Tricefield Road asked if the application would be considered under upcoming new state storm water regulations or under the current State Code. Commissioner Brady said the application must be considered under current law. President Brady asked if there were any other comments from the public or the Commissioners on the acceptance of the application. There being none, President Brady acknowledged the acceptance of the application and said there will be public discussions and review of the application at the Commissioners regular legislative session on October 28, 2009.
- **Town of St. Michaels Residential Anti-Displacement and Relocation Assistance Plan**  
Mrs. Thomas explained that the State of Maryland requires municipalities to update this plan every three years in order to be eligible for continued grant funding. There were no questions or comments from the Commissioners or the public. The Commissioners then directed staff to draft the legislation in resolution form for a possible vote at the Commissioners' October 28, 2009 legislative session.

- **Task Force Resolution and Mutual Aid Ordinance**

Mrs. Thomas said the Commissioners had before them two pieces of draft legislation, a resolution and an ordinance. Mrs. Thomas said the resolution is to renew the Town's participation in the Talbot County Drug Task Force, and that Chief Dennis would be serving as the Chairman of the Task Force for the current year. Mrs. Thomas noted that the Task Force includes members from the Sheriff's Department, the State Police, and law enforcement members from various towns. Mrs. Thomas said with the Commissioners' permission to proceed, she would have a draft Task Force Resolution available for possible vote at the Commissioners October 28, 2009 meeting. Mrs. Thomas said that the ordinance would augment a previous Mutual Aid Agreement between the Towns of St. Michaels, Oxford, Trappe, Centerville Cambridge, the State Police and the Talbot County Sheriff's Office. Mrs. Thomas said that under the agreement, aid would be rendered only if staff is available, and that the smaller Towns like St. Michaels stand to benefit more by having access to the greater resources of larger Towns like Easton. President Brady asked if there were any questions from the Commissioners or the public. There were none. Mrs. Thomas asked for a consensus of the Commissioners to go forward with the preparation of the Task Force Resolution and to schedule a possible vote on October 28, 2009, The Commissioners agreed. Mrs. Thomas then asked for the Commissioners' approval to submit a draft Mutual Aid Ordinance for legal review, noting that this legislation would not be added to the Commissioners' calendar before the end of the year. The Commissioners agreed.

- **Modification of the Decorative Overlay for the Parking Lot in Muskrat Park**

Mrs. Thomas said the Commissioners needed to approve a change order for the final paving and decorative overlay for the parking lot in Muskrat Park. Mrs. Thomas said the paving company originally scheduled to do the work is no longer available and that Bunting & Murray has a paving sub-contractor (Terra Firma) who has agreed to do the paving, without the decorative overlay, as they are not experienced in this type of work. Mrs. Thomas said she would need a separate motion approving the change order. Commissioner Dinkel made the motion to approve a change order to delete \$21,680.00 from the current contract with Site Maintenance, Inc. Commissioner Hunt seconded the motion which passed on a roll call vote of 4-0.

Commissioner Dinkel then made a motion to approve continuation of the paving by the new sub-contractor Terra Firma and to pay them the amount up to \$15,000.00 for the paving; and to delay the decorative overlay work, holding in reserve the amount of \$6,680.00 for the decorative finish, until an experienced paving company could be found. Commissioner Clark seconded the motion which passed on a roll call vote of 4-0 in favor.

**Comments from the Public:**

Roy Myers of E. Chestnut Street offered an addendum to his earlier comments regarding Resolution 2009-20. Mr. Myers said that the applicant had come forward to some citizens of the town with the 188-unit proposal including the Huntman property, but that lawsuits were preventing a final solution. Mr. Myers said he favored something close to the 188-unit proposal and said he would work hard to resolve the issue and move the project forward.

**Comments from the Commissioners:**

President Brady said he would like the Commissioners to know he had recently attended a Popular Island Tour and met people who have federal dollars to establish labs for the Bay Cleanup effort and made a plea for St. Michaels as a possible location for one of these labs. He said that he also attended the MML Conference in Emmitsburg, Maryland September 17 through

September 20, 2009 and the Municipalities have decided that their legislative agenda was going to be budget only, so we will hear a lot about that from the Municipalities. President Brady also stated that on September 22, 2009, the Eastern Shore Association of Municipalities met providing an opportunity for him to talk to all of our representatives and senators, especially about the potential closing of the Upper Shore Health Center. Mr. Brady said he feels it is important for the Commissioners to speak out against the closing, and loudly, in order to be heard in Annapolis. The Commissioners should contact the governor and staff to let them know that the closing is not in the best interests of the Eastern Shore. Mr. Brady said that he also met this morning with Attorney General Gansler about Bay Cleanup. Mr. Brady would like to see a return to the compliance assistance program under which violators required to come into compliance with guidance from MDE, rather than just a fine. And finally, Mr. Brady mentioned that at the request of Mayor Willey, he has placed the Town of Easton Memorial Walk Brick Order Form in the lobby of the Town office for anyone who wishes to participate

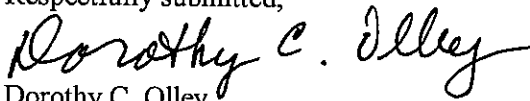
**Announcement of Next Meeting:**

President Brady announced that the Commissioners would meet in a Special Working Session on October 7, 2009 at 4:00 p.m. at the Town Office to discuss the Town's 2010 Budget and Phase 4 (Cherry Street and Mulberry Street) of the Street Reconstruction Project. President Brady also said the Commissioners' Regular Working Session would be October 14, 2009 at 5:00 p.m. at the Town Office, and the Regular Legislative Session would be held on October 28, 2009 at 6:30 p.m., also at the Town Office.

**Adjournment:**

President Brady adjourned the meeting at 8:05 p.m.

Respectfully submitted,



Dorothy C. Olley  
Assistant Town Clerk

**Attachments:**

- Draft Debt Policy
- Draft Ordinance 408 and Exhibits
- Ordinance 407
- Resolution 2009-20
- Draft Ordinance 405
- Draft Resolution 2009-19
- Chesapeake Reach Storm water Management Plan